

1842.7401

1842.7401 Earned Value Management Systems (EVMS).

When an offeror or contractor is required to provide an EVMS plan to the Government in accordance with NASA Policy Directive (NPD) 9501.3, Earned Value Management, the contracting officer shall forward a copy of the plan to the cognizant administrative contracting officer (ACO) to obtain the assistance of the ACO in determining the adequacy of the proposed EVMS plan.

1842.7402 Solicitation provisions and contract clauses.

(a) When the Government requires Earned Value Management, the contracting officer shall insert:

(1) The provision at 1852.242-74, Notice of Earned Value Management System, in solicitations; and

(2) The clause at 1852.242-75, Earned Value Management System, in solicitations and contracts.

(b) The contracting officer shall insert the clause at 1852.242-76, Modified Cost Performance Report, in solicitations and contracts requiring modified cost performance reporting (see NPD 9501.3, Earned Value Management).

(c) The contracting officer shall insert the provision at 1852.242-77, Modified Cost Performance Report Plans, in solicitations for contracts requiring modified cost performance reporting (see NPD 9501.3).

PART 1843—CONTRACT MODIFICATIONS

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AUTHORITY: 42 U.S.C. 2473(c)(1).

SOURCE: 62 FR 14022, Mar. 25, 1997, unless otherwise noted.

Subpart 1843.2—Change Orders

1843.205 Contract clauses.

As authorized in the prefaces of clauses FAR 52.243-1, Changes—Fixed Price; FAR 52.243-2, Changes—Cost Reimbursement; and FAR 52.243-4, Changes; and in the prescription at 43.205(c) for FAR 52.243-3, Changes—Time-and-Material or Labor-Hours, the period within which a contractor must assert its right to an equitable adjustment may be varied not to exceed 60 calendar days.

[65 FR 58932, Oct. 3, 2000]

1843.205-70 NASA contract clauses.

(a)(1) The contracting officer may insert in contracts a clause substantially the same as 1852.243-70, Engineering Change Proposals, when ECPs are expected. Paragraphs (c) and (d) of the basic clause and Alternate I of the clause shall be changed to reflect the specific type of contract.

(2) If it is desirable to preclude a large number of small-dollar, contractor-initiated engineering changes and to reduce the administrative cost of reviewing them, the contracting officer shall use the clause with its Alternate I.

(3) If the contract is a cost-reimbursement type, the contracting officer shall use the clause with its Alternate II.

(b) The contracting officer may insert a clause substantially as stated at 1852.243-72, Equitable Adjustments, in solicitations and contracts for—

(1) Dismantling, demolishing, or removing improvements; or

(2) Construction, when the contract amount is expected to exceed the simplified acquisition threshold and a fixed-price contract is contemplated.

[62 FR 14022, Mar. 25, 1997, as amended at 63 FR 17339, Apr. 9, 1998; 66 FR 53548, Oct. 23, 2001]

Subpart 1843.70—Undefinitized Contract Actions**1843.7001 Definitions.**

Undefinitized contract action (UCA) means a unilateral or bilateral contract modification or delivery/task order in which the final price or estimated cost and fee have not been negotiated and mutually agreed to by NASA and the contractor. (Issuance of letter contracts and their modifications are governed by subpart 1816.6.)

1843.7002 Policy.

(a) Undefinitized contract actions may be issued only on an exception basis, and centers must ensure that NASA liabilities and commitments are minimized. When an undefinitized contract action is justified and program requirements can be severed into smaller, discreet efforts, the work authorized by the undefinitized contract action must be limited to the minimum severable effort required to satisfy the urgent program requirements. The remaining requirements may not be initially included in the undefinitized contract action and must be acquired through a separate fully priced and definitized contract action.

(b) The contract file for each UCA shall be documented to justify issuance and shall include a Government estimate for the changed requirements.

[66 FR 53548, Oct. 23, 2001]

1843.7003 Procedures.

(a)(1) Issuance of undefinitized contract actions with a Government estimated cost or price over \$100,000 must be approved in writing by the head of contracting activity.

(2) All other undefinitized contract actions must be approved in writing by the procurement officer.

(3) In emergency situations, approval may be given orally and subsequently confirmed in writing.

(4) The approval authorities in paragraphs (a)(1) and (2) of this section are not delegable.

(b) (1) Undefinitized contract actions exceeding \$100,000 must be issued as bilateral agreements setting forth a ceiling price or "not to exceed" estimated cost figure for the changed contractual

requirements. For fixed price contracts the negotiated price for the changed contract requirements shall not exceed the established ceiling price. In the case of cost type contracts any costs eventually negotiated for the changed requirements in excess of the "not to exceed" estimated cost figure shall be non-fee bearing. The ceiling price or "not to exceed" estimated cost figures shall be separately identified in the UCA instrument from the pricing structure of the basic contract.

(2) The head of contracting activity may waive the ceiling price or "not to exceed" estimated cost figure and bilateral agreement requirements prior to UCA issuance on the basis of urgency. This waiver authority is not delegable. Any waivers shall be documented in the contract file.

(c) The changed contractual requirements set forth in the UCA shall be clearly defined and shall be limited to the minimum effort required to satisfy urgent program requirements while a cost proposal is prepared, analyzed and negotiated.

(d) For undefinitized contract actions with a Government estimate greater than \$1,000,000 and not excepted under subpart 1843.7004, a 180 day funding profile shall be obtained from the contractor prior to execution of the undefinitized contract action.

(e) Undefinitized contract actions with a Government estimated cost or price greater than \$1,000,000 shall include a requirement that the change shall be separately accounted for by the contractor to the degree necessary to provide the contracting officer visibility into actual costs incurred pending definitization. The contracting officer may waive this requirement for individual actions if there is a documented finding that such accounting procedures would not be cost effective. Any such waiver shall not affect existing NASA Form 533 or other financial reporting requirements set forth in the contract.

[62 FR 14022, Mar. 25, 1997, as amended at 66 FR 53548, Oct. 23, 2001; 68 FR 23424, May 2, 2003]

1843.7004

1843.7004 Exceptions.

(a) Exceptions to the requirement for head of contracting activity or procurement officer approval of undefinitized contract actions are—

(1) Modifications to facilities contracts;

(2) Modifications to construction contracts using Construction of Facilities funding;

(3) Urgent modification resulting from Shuttle manifest changes or that involve immediate issues of safety or damage/loss of property;

(4) Modifications to decrease the contract value; or

(5) Modification to letter contracts.

(b) The contract file for any of the modifications in paragraph (a) of this section shall cite the exception and include complete supporting rationale for its applicability.

[62 FR 14022, Mar. 25, 1997, as amended at 66 FR 53548, Oct. 23, 2001; 68 FR 23424, May 2, 2003]

1843.7005 Definitization.

(a) Undefinitized contract actions should be sufficiently complete and detailed as to enable the contractor to begin immediate preparation of a cost proposal for the changed requirement. The NASA goal is to definitive UCAs within 180 from date of issuance.

(b) Whenever possible, pre-change study efforts or engineering change proposals (ECPs) shall be utilized to negotiate and definitize changes prior to issuance.

Subpart 1843.71—Shared Savings

1843.7101 Shared Savings Program.

This subpart establishes and describes the methods for implementing and administering a Shared Savings Program. This program provides an incentive for contractors to propose and implement, with NASA approval, significant cost reduction initiatives. NASA will benefit as the more efficient business practices that are implemented lead to reduced costs on current and follow-on contracts. In return, contractors are entitled to share in cost savings subject to limits established in the contract. The contracting officer may require the contractor to

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provide periodic reporting, or other justification, or to require other steps (e.g., cost segregation) to ensure projected cost savings are being realized.

1843.7102 Solicitation provision and contract clause.

The contracting officer shall insert the clause at 1852.243–71, Shared Savings, in all solicitations and contracts expected to exceed \$1,000,000, except those awarded under FAR part 12, NRA and AO procedures, or the SBIR and STTR programs.

PART 1844—SUBCONTRACTING POLICIES AND PROCEDURES

Subpart 1844.2—Consent to Subcontracts

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1844.201–1 Consent requirements.

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1844.305 Granting, withholding, or withdrawing approval.

1844.305–70 Review of CPSR reports.

AUTHORITY: 42 U.S.C. 2473(a)(1).

SOURCE: 62 FR 14023, Mar. 25, 1997, unless otherwise noted.

Subpart 1844.2—Consent to Subcontracts

1844.201 Consent and advance notification requirements.

1844.201–1 Consent requirements. (NASA supplements paragraph (a))

(a)(i) In determining special surveillance consent requirements, the contracting officer should consider specific subcontract awards, as well as any individual systems, subsystems, components, technologies, and services that